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stockholders. Held, that whatever right the stockholders had to offset their indebtedness, or to be subrogated to the rights of the holders of the secured notes, was waived by the agreement that the other creditors should be preferred; and hence the entire purchase price should be distributed to the general creditors.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 2170-2175; Dec. Dig. § 545.* 3 Va.-W. Va. Enc. Dig. 590, 602.]

Appeal from Circuit Court of City of Norfolk.

Action by the S. M. Price Machinery Company, Incorporated, against the Standard Manufacturing Company, Incorporated, and others. From the decree, defendants appeals. Affirmed.

Frick & Williams, for appellants.

Peatross & Savage and *A. B. Carney*, for appellee.

FLANARY *v.* COMMONWEALTH.

June 18, 1912.

[75 S. E. 289.]

1. Witness (§ 304*)—Privilege—Statutory Protection.—A witness in a criminal proceeding cannot avail himself of the privilege against giving incriminating testimony afforded by Const., art. 1, § 8 (Code 1904, p. ccix), where a statute gives him full immunity against liability to prosecution for any unlawful act which he may disclose in such testimony.

[Ed. Note.—For other cases, see Witnesses, Dec. Dig. § 304.* 13 Va.-W. Va. Enc. Dig. 976.]

2. Witnesses (§ 304*)—Privilege—Statutory Protection.—On a criminal trial a witness was asked whether, after an election, he testified before the grand jury touching the violation of any clause or part of Code 1904, § 145a, and also touching the violation of any other election laws, to which he replied that he went before the grand jury and testified concerning breaches of the election laws. Held, that the answer, considered in connection with the question, showed that he had testified relative to violations of section 145a, and hence was entitled to whatever immunity was afforded by subsection 9, § 145a, Code Supp. 1910, providing that no witness, giving evidence in any prosecution or other proceeding under that act, shall be proceeded against for any offense against that act, or against any other election law, committed by him at or in connection with the same election.

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. §§ 1051, 1052; Dec. Dig. § 304.* 13 Va.-W. Va. Enc. Dig. 974.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

3. Witnesses (§ 293½*)—Privilege—"Proceeding."—A witness testifying before the grand jury relative to violations of section 145a, Code Supp. 1910, is entitled to the immunity afforded by subsection 9, whether the grand jury's investigation results in an indictment, presentment, or information, or not; such inquiry by the grand jury constituting a "proceeding."

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. § 1011; Dec. Dig. § 293½.* 13 Va.-W. Va. Enc. Dig. 974.]

4. Witnesses (§ 304*)—Privilege—Statutory Protection.—Under such subsection 9, a person who testified before the grand jury relative to violations of section 145a, Code Supp. 1910, at a particular election, can be compelled to testify on the trial of a person charged with accepting a bribe to vote at the same election for a particular candidate, under section 3853, although his testimony incriminates himself; that section affording immunity from prosecution under Code 1904, § 145a, or any other election law, coextensive with the constitutional privilege of silence.

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. §§ 1051, 1052; Dec. Dig. § 304.* 13 Va.-W. Va. Enc. Dig. 974.]

Error to Circuit Court, Lee County.

C. R. Flanary, a witness on the trial of Dock Burchett for crime, was adjudged guilty of contempt of court, and he brings error. Affirmed.

J. C. Noel, J. W. Orr, and M. G. Ely, for plaintiff in error.

Samuel W. Williams, Atty. Gen., E. E. Skaggs, and E. W. Pennington, for the Commonwealth.

CARPENTER *v.* GRAY.

June 13, 1912.

[75 S. E. 300.]

1. Account, Action on (§ 11*)—Verification—Sufficiency.—Where a notary public's certificate attached to plaintiff's declaration stated that J. E. G. made oath that the foregoing account against W. R. C. was just, true, and correct, and due in a stated amount, with interest thereon from a stated date, it was sufficient to entitle plaintiff to the benefit of Code 1904, § 3286, providing that when the plaintiff shall file an affidavit, by himself or his agent, verifying the account, the defendant shall not be permitted to file a plea in bar, but plaintiff shall be entitled to judgment, unless the defendant shall file a verified denial, and it was immaterial that it did not specifically state that

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.